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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA-SAN JOSE DIVISION

JASBIR GILL, MAHMOUD KEDKAD,

Case No. C 07-04112PVT

Plaintiffs,

vs.

KNOWLEDGESTORM, INC. a corporation,
DOES 1 THROUGH 50,

Defendants.

**DECLARATION OF BRIAN S.
KREGER IN SUPPORT OF
APPLICATION FOR ORDER TO
ENLARGE TIME TO FILE THE
OPPOSITION TO THE MOTION
FOR SUMMARY JUDGEMENT
AGAINST PLAINTIFF KEDKAD**

DATE: June 3, 2008
TIME: 10:00 a.m.
COURTROOM: 5

I, Brian S. Kreger, declare:

1. I am an attorney at law licensed to practice in the State of California and the
United States District Court, Northern District of California.

2. I am the attorney of record for plaintiffs herein.

3. I have person knowledge of the matters set forth herein and if called as a
witness could competently testify thereto.

1 4. This case involves claims by two former employees of defendant, Jasbir Gill
2 and Mahmoud Kedkad, who claim racial harassment.

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4 5. This matter is set for two Summary Judgments to be heard on June 3,
5 2008. Trial is set for August 4, 2008.

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7 6. There have been no previous requests for enlargement of time or
8 continuances.

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10 7. On or about May 1, 2008 I arrived back in my office after attending
11 depositions in Atlanta, Georgia in this case.

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13 8. Upon arriving in my office on May 1, 2008, I learned that defendant had
14 served hard copies of a Motion for Summary Judgement with respect to
15 plaintiff Gill only.

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17 9. The service of the papers included two copies of each of the Gill motion
18 papers, but did not include any motion papers with respect to plaintiff Kedkad.
19 As I believed that the hard copy service of the papers by defendant contained
20 all of their moving papers, I did not realize that a motion had also been filed
21 with respect to Kedkad. Plaintiff's opposition to the Gill motion was timely filed
22 on or about May 12, 2008. However, no opposition was filed to the Kedkad
23 motion as I did not realize the motion had been filed.

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25 10. On May 19, 2008 I received a call from Ms. Jackson in Magistrate
26 Trumbell's chambers asking if I was intending to oppose the Motion for
27 Summary Judgement in the Kedkad matter. I told her I was not aware of it and
28 that I certainly would want oppose it.

1 11. I filed an opposition to the Kedkad motion on May 20, 2008. The
2 evidence submitted is identical to the evidence submitted in the Gill matter.
3 The Memorandum of Points and Authorities is also essentially the same as it
4 deals with the same law with respect to a hostile work environment. The only
5 difference is that the Kedkad action does not involve a retaliation claim.

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7 12. On May 19, 2008 I left voice mail messages with the two attorneys for
8 defendant in the Ford & Harrison law firm asking them to contact me.

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10 13. On May 20, 2008, I spoke with attorney Steve Kroll and advised him of
11 the situation regarding plaintiff's opposition to the Kedkad motion and asked if
12 they would stipulate to the filing. He indicated that they would get back to me.

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14 14. On May 20, 2008 I served and filed the opposition papers to the Kedkad
15 motion and requested by email that defense counsel stipulate to the late filing.

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17 15. On May 21, 2008 I called defense counsel Jeffery Mokotoff again and
18 asked for a response to my request for a stipulation. Mr. Mokotoff advised me
19 on May 21, 2008 that defendant would not stipulate.

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21 16. Accordingly, I attempted, but was unable to obtain a stipulation to change
22 the time to file the opposition and respectfully request that the Court grant it in
23 the interests of justice.

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25 17. The legal issues with respect to the matters raised in the Kedkad Motion
26 for Summary Judgement are the same as those raised in the Gill motion and the
27 legal authorities relied upon by plaintiff and defendant concerning the legal
28 standard for a hostile work environment are the same. There is no prejudice to

1 defendant and I would not expect that it would necessitate any change in the
2 trial date or the hearing date, although, plaintiff is of course amenable to any
3 change in those dates if the Court or defendant believe it necessary.

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5 I declare under penalty of perjury under the laws of the State of California
6 and the United States of America that the foregoing is true and correct.

7 Executed this 22st day of May, 2008 in San Jose, California.

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9
10 /s/ Brian S. Kreger
11 Brian S. Kreger, Attorney for plaintiff
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